



House Commerce & Gaming Committee

Nov. 30, 2020

Washington State Liquor and Cannabis Board (WSLCB)



Overview

- LCB response to COVID-19
- LCB efforts to assist regulated industries
- Enforcement action during COVID-19 restrictions
- Status of LCB work to implement recent alcohol-related legislation
- Cannabis policy update, including social equity (E2SHB2870)
- Cannabis sales/revenue data for FY2020 and during COVID-19 restrictions



COVID-19: LCB Response

- **Governor Issues Stay Home, Stay Healthy Directive – March 2020**
- Immediately formed **Incident Response Team** (Management Team and Board Chair)
 - Team met daily to make critical decisions
 - Team determined most LCB staff could adequately serve licensees working remotely
 - Sent staff home with equipment per Governor’s directive
- **IT Staff**
 - Configured and issued equipment to meet the work needs of staff
 - Supported the IT needs of a newly remote workforce



COVID-19: LCB Response

- **Internal Communications**
 - Leadership communicated regularly with staff
 - Surveyed staff about how they were doing and their needs
 - Created intranet page as resource for employees
- **External Communications**
 - Created webpages to communicate agency decisions, state guidance and instructions on how to comply
 - Issued regular messages licensees through a listserv



COVID-19: LCB Response

- **Enforcement**
 - Supported state's Emergency Operations Center
 - Established protocols for driving alone in vehicles
 - Suspended compliance checks with minors
- **Licensing**
 - Immediately expanded customer service desk
 - Set up a central email account and triaging system for initial onslaught of questions from licensees



COVID-19: LCB Response

- **Governor Issues Stay Home, Stay Healthy Directive – March 2020**
- **LCB assisted regulated licensee industries**
- **Licensees that sell alcohol hit hard**
 - Hospitality and leisure sector down 63 percent since March (Dept. of Commerce)
- **LCB Communication and Organization**
 - **Direct communication** with licensees (throughout year)
 - Immediately formed **Legal and Policy Team**
 - Board chair, agency leadership, key staff
 - Met daily to make immediate allowances for industries
 - Priority was prioritizing help for struggling industries
 - **Executive, Licensing, and Enforcement**
 - Met regularly with Governor's Office and trade organizations to ensure continued business operations
 - Currently working with 19 cities to find ways to allow outdoor seating and shared space
 - Met last week with Tacoma Mayor, Governors' Office restaurants and trade groups to keep business during down months

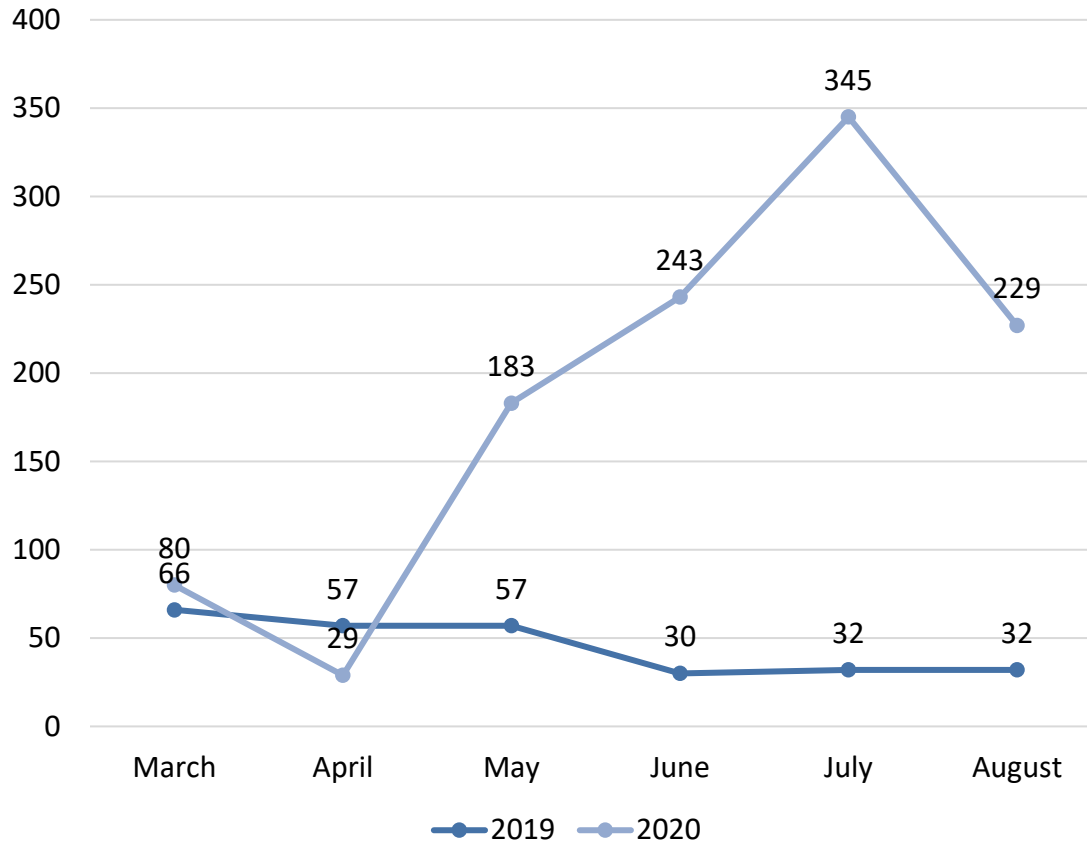


LCB Assisting Regulated Industries

- **Creative Allowances for Liquor Licensees** (Over 125 liquor issues)
 - **All licensees**
 - Emergency Board actions to allow late payments of taxes and fees without penalties and other rule changes
 - **Manufacturers of Alcohol**
 - Allowed manufacturers of alcohol to make sanitizer
 - **Distributors**
 - Temporarily allowed licensed distributors, and other industry members, to sell trucking and distribution services for non-liquor items to licensed retailers
 - Allowed distributors to accept returns of kegs and resell
 - Allowed distributors to collect spirits to sell to make hand sanitizer
 - **Restaurants**
 - Initially cocktail kits to go with sales of food
 - Then allowed bottles of spirits with sales of food
 - Then mixed cocktails to-go with sales of food
 - Allowed delivery services for beer and wine
 - Allowed bar seating for minors to create additional usable space
 - Sped up approval for outdoor alcohol service
 - **Nightclubs, Breweries, Wineries, Distilleries and Taverns**
 - Helped licensees that don't serve food quickly transition to a license that would allow them to stay open



Licensing Alteration Requests



COVID-19 Impact

- Temporary allowances for outside service
- Collaboration with local cities and counties
- Reallocated resources to expedite requests



LCB Efforts to Assist Regulated Industries

- **Cannabis Industry Remained Open**
 - Cannabis retailers were deemed as “essential” in part because they are only place to legally obtain cannabis
 - Cannabis producers/processors essential because they supply/support retailers
 - Unlike alcohol licensees, all remained open throughout
- **Allowances for Cannabis Industry**
 - Allowing youth under age 16 on producer farms (child care needs, often on remote farms)
 - Curbside service
 - Relaxed timelines related to maximum delivery times due to wildfires

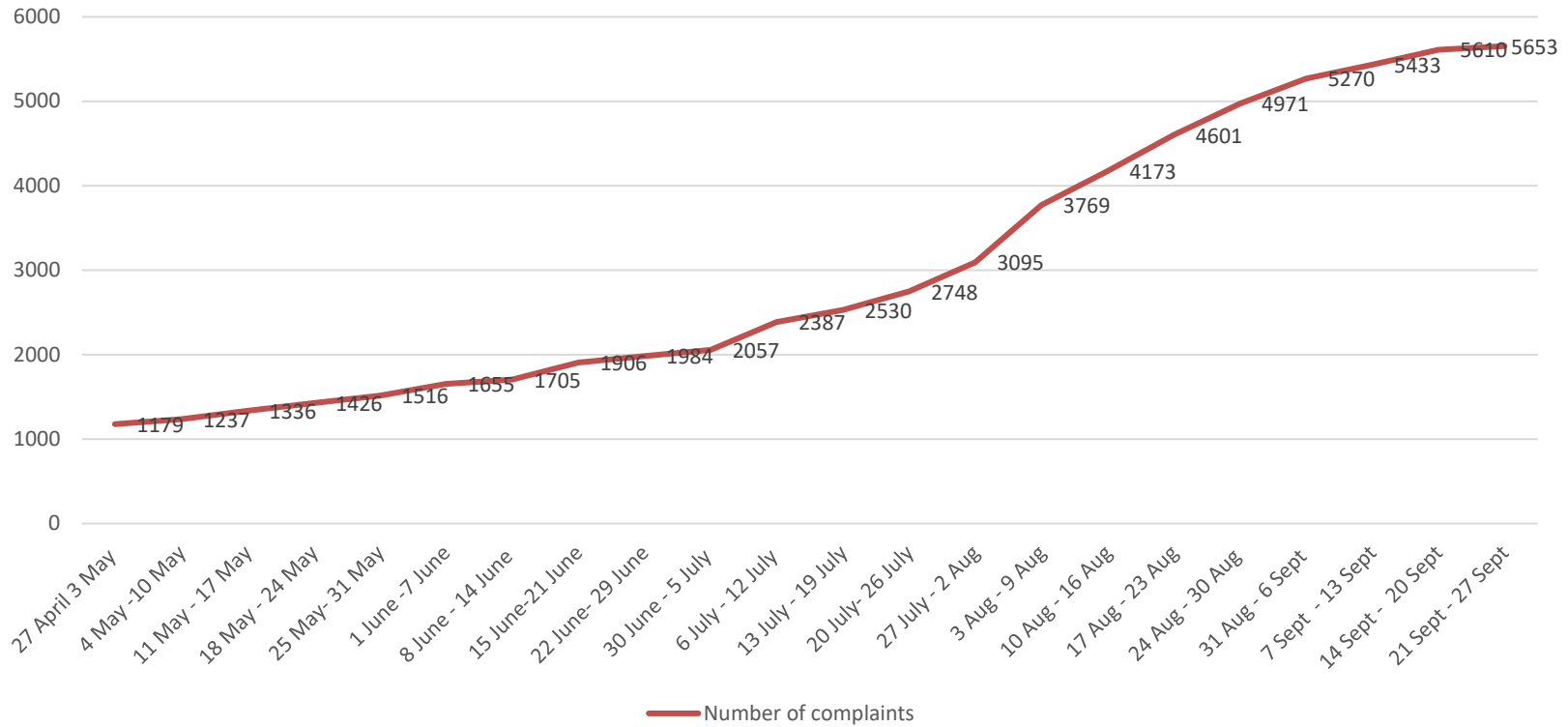


Current Status with COVID Restrictions

- **Temporary allowances**
 - Well received by licensees, govt. officials from Seattle, Tacoma, Spokane, and hospitality industry
 - Prevention community and law enforcement have expressed concerns
 - Policy and Rules Unit analyzing temporary allowances and developing recommendations for permanence where appropriate
 - Currently slated to expire 30 days after county enters Phase 4
- **LCB Internal and external communications**
 - Communicating about teleworking plans, health and safety, changing restrictions, and other emerging topics
 - Incident Response Team now meets twice weekly focusing on:
 - Supporting staff at home, including their well being during COVID
 - Legal and Policy Team meets twice weekly to address emerging issues



Total Cumulative Complaints Received





COVID-19 Complaints and Enforcement Actions

| Type of Complaint | Percentage |
|--------------------|----------------|
| Employee Safety | 1.74% |
| Large Gatherings | 3.91% |
| Mask Enforcement | 48.80% |
| Non-COVID | 0.14% |
| On-premises Sales | 12.13% |
| Open Non-Essential | 6.37% |
| Social Distancing | 26.34% |
| 10pm Closure | 0.58% |
| Total | 100.00% |

| All Complaints | Number |
|----------------------------|-------------|
| Closed Substantiated | 1041 |
| Closed Unsubstantiated | 4228 |
| Closed, Education Provided | 46 |
| Open | 338 |
| Total | 5653 |

| Corrective Actions | Number Issued |
|--------------------|---------------|
| Notice To Correct | 1 |
| Verbal Warning | 175 |
| Written Warning | 52 |
| AVN | 12 |
| Total | 240 |

| Total Contacts | Total Hours |
|----------------|-------------|
| 20522 | 4435 |

In addition to licensee education, LCB meets weekly with other agencies, including DOH, L&I, and the Governor’s Office to provide consistent interpretation and application of the Governor’s directives.



Supporting Cannabis Licensee Success

- Full implementation of ESSB 5318
 - Extensive collaboration with industry, licensees and others to completely redesign and co-construct marijuana penalty rule structure.
 - Established process for issuance of Notice of Correction instead of civil penalty
 - Reduced the time for cumulative effect of escalating penalties to two years
 - Board rulemaking to support cannabis licensee success
 - Added a deferral option for first-time offences
 - Restructured penalty grids and established categories based on violation severity
 - Collaborative rule development process resulted in one supportive comment at hearing, and one comment of concern from public health
 - Rules adopted January 22, 2020

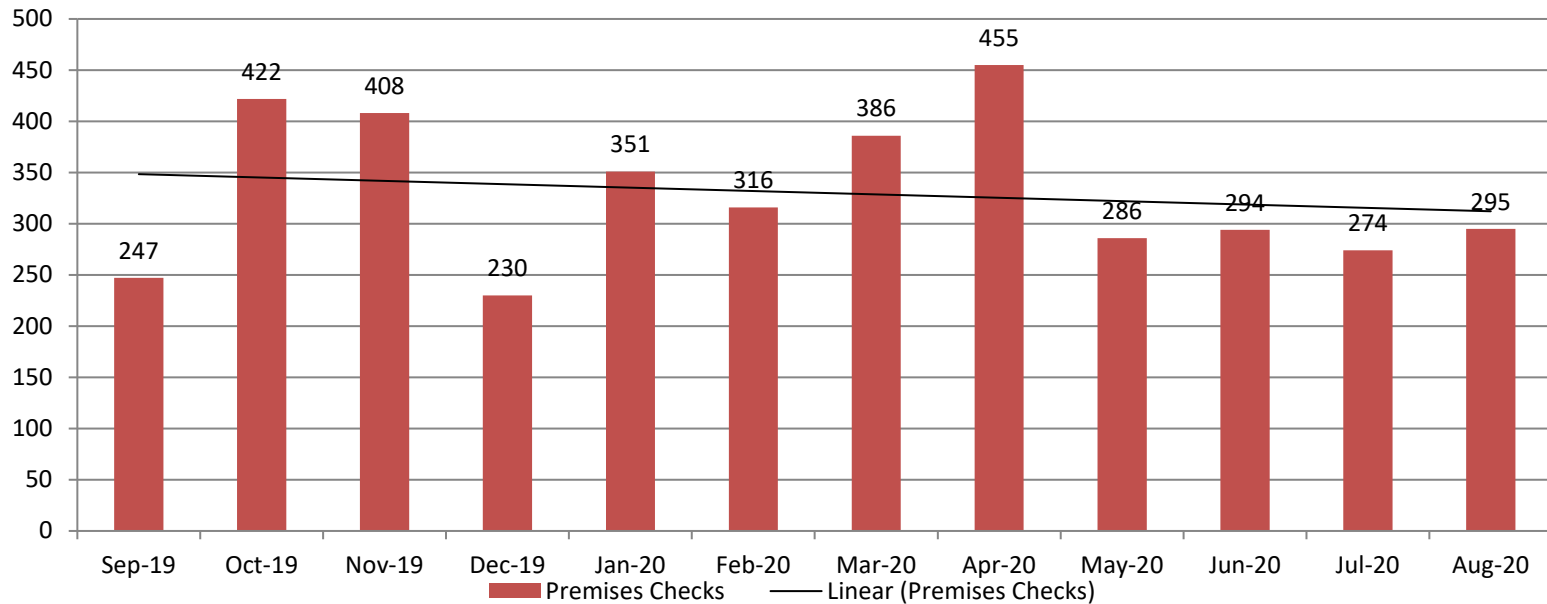


Supporting Cannabis Licensee Success

- Full implementation of ESSB 5318, Part Two
 - Collaborated with industry representatives, licensees and others to co-design a voluntary consultation and education program
 - Rules frame frequency, manner and method for providing consultative and educational services to support licensee success
 - Extensive collaborative rule development resulted in no written or oral comment at public hearing - final rules were presented to the Board for adoption on September 30, 2020

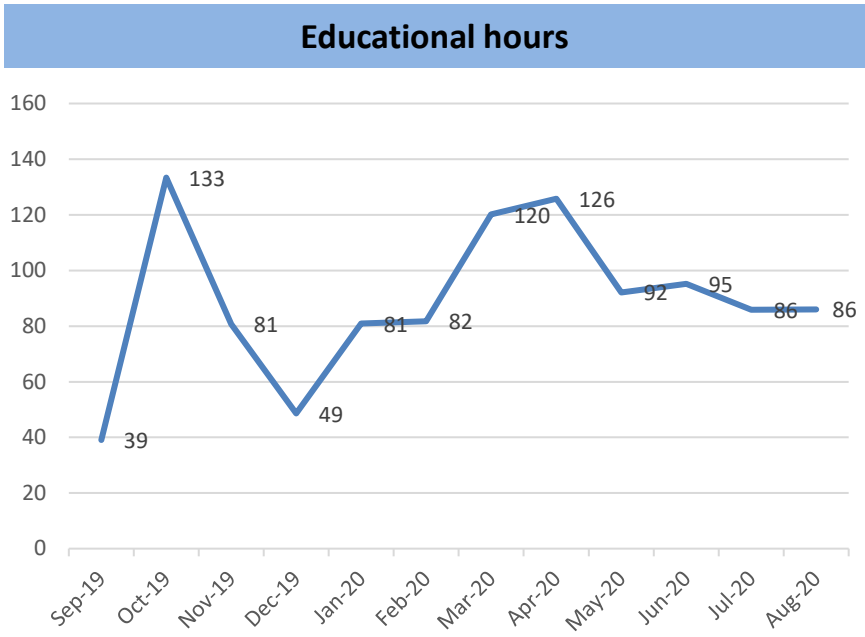


Cannabis Premises Checks





Educational Efforts



Top 5 Educational Events

| Topic | Number of events |
|--|------------------|
| Regulatory | 783 |
| COVID-19 | 709 |
| Youth Access to Cannabis | 129 |
| Failure to utilize and/or maintain traceability. | 114 |
| Advertising | 109 |



Seizures/Destruction Events

Outside Agency Assistance

- 2 seizures for emergency suspension
- 4 seizures based on assistance to outside agencies
- 2 seizures unlicensed locations

Licensed Locations

- 4 seizures for pesticides usage
- 3 closed businesses
- 2 Retail stores requested assistance in the destruction of product
- 9 Traceability violations



Impacts of COVID-19

| Officer Actions /Activities | Sept 2018- August 2019 | Sept 2019- August 2020 | Difference |
|-------------------------------------|---------------------------|---------------------------|------------|
| Compliance Checks conducted | 1245 | 418 | -827 |
| Marijuana Premises Checks conducted | 5004 | 3964 | -1040 |
| Seizures/Destruction events | 72 | 26 | -46 |
| AVNS Issued | 234 | 65 | -169 |
| Warnings Issued | 509 | 181 | -328 |
| Education Hours Conducted | 662 | 1070 | 408 |

The agency has had a change in emphases since the outbreak of COVID 19.

Education given to businesses on the changes to rules due to COVID 19 has required more officer time.

Educational hours have increased while in other areas officer actions have decreased.



Liquor Legislation Implementation

| Bill | Legislative Action |
|---------|---|
| SB 5549 | <p>Modernizing distillery marketing and sales restrictions</p> <p>Phase 1: Effective June 11, 2020</p> <ul style="list-style-type: none">▪ Expanded off-premises sales to spirits of another Washington distillery▪ Allowed on-premises purchase and consumption▪ Requires food options and a list of local restaurants <p>Phase 2: Effective January 1, 2021</p> <ul style="list-style-type: none">▪ New off-site tasting room license▪ Distilleries, breweries, and wineries may jointly operate off-site tasting rooms |
| HB 2412 | <p>Brewery Locations</p> <p>Effective June 11, 2020</p> <ul style="list-style-type: none">▪ Increase from two to four retail locations▪ Eliminates keg sale requirement▪ Dogs allowed on-premises at breweries that do not provide food service |



Liquor Legislation Implementation

New License Types – Effective June 11, 2020

| Bill | Legislative Action | Applications Approved |
|---------|---|-----------------------|
| SB 5006 | On-Premises Endorsement for Wineries and Breweries <ul style="list-style-type: none">Allows for three offerings of beer to be served at wineries, and three offerings of wine to be sold at breweries. | 94 |
| SB 6392 | Wine Association License <ul style="list-style-type: none">Allows local wine associations to hold events for the purpose of promoting Washington wine. | 2 |



Implementing Cannabis Legislation: Social Equity

- LCB Board Members identified three priorities in 2019:
 - Social equity, medical market viability, and small producer sustainability
- Agency-request legislation included social equity proposed by LCB:
 - HB 2870 by Rep. Eric Pettigrew
 - Companion SB 6604 – Prime Sponsored by Sen. Keiser
 - Co-sponsored by Sens. Conway, Saldana, Hasegawa and others



Purpose of E2SHB 2870

- Reduce barriers to entry into cannabis industry for those most adversely impacted by cannabis prohibition and enforcement
- Disproportionate impact is well documented
 - Nationwide, African Americans arrested at four times the rate of White Americans, despite similar cannabis usage rates
 - In Washington, Latino and Native American residents arrested for marijuana possession 1.6 times more often than White residents from 2000 to 2010
 - Even after passage of I-502, African Americans in Washington arrested at twice the rate of White residents



Key Elements

- Cannabis retail licenses (forfeited, revoked, cancelled, or never issued) will become available for social equity applicants
 - About 34 licenses
- Legislative Task Force on Social Equity in Marijuana created:
 - Guide the LCB in development of program details
 - Recommendations on potential future development of the program
- Pandemic delayed launch of Task Force work
- LCB held community outreach meetings (Sept. 29, Oct. 5, 12)
- LCB assisting Task Force staff as requested



Marijuana Excise Tax

Background

- Taxes paid the 20th of the month following the actual sales
 - For example, April collections reflect March’s sales
 - Highlighted cells are the months of Stay Home, Stay Healthy

Analysis

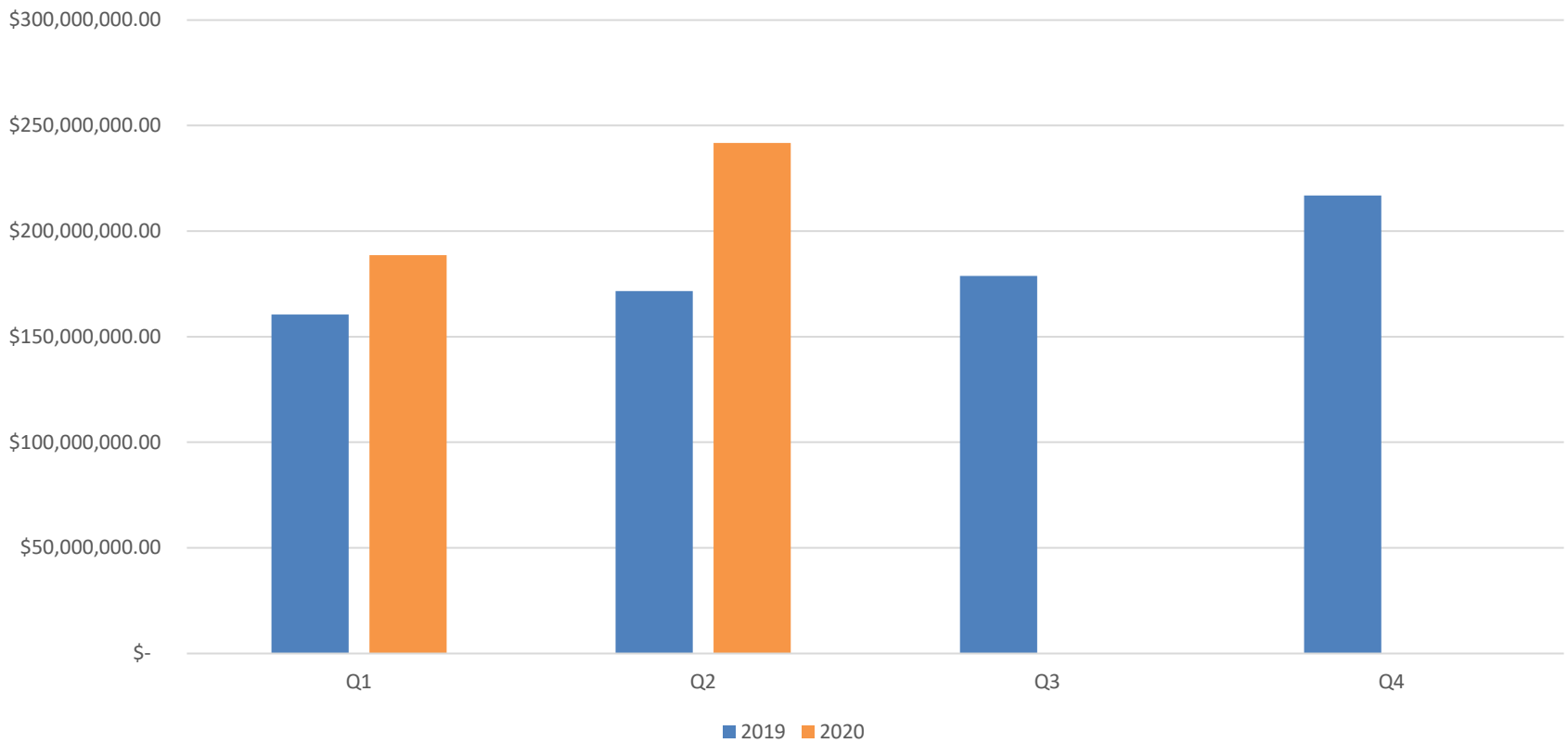
- Strong cannabis sales growth continues year over year
- COVID months’ collections far exceed growth of non-COVID months
- FY20 August collections (for July sales) topped \$50 million for the first time ever and were 41% higher than August FY19
- Total Excise Tax collected since first sales in July 2014 was \$1.2 billion

| | JUL | AUG | SEP | OCT | NOV | DEC | JAN | FEB | MAR | APR | MAY | JUN |
|------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| FY21 | 45,967,712 | 50,262,806 | 47,273,513 | 45,762,761 | | | | | | | | |
| | 32.1% | 41.1% | 30.3% | 27.5% | | | | | | | | |
| FY20 | 34,801,751 | 35,617,301 | 36,268,258 | 35,882,305 | 36,244,481 | 35,542,632 | 38,243,017 | 34,333,983 | 34,376,476 | 41,146,515 | 47,386,182 | 44,318,545 |
| | 4.5% | 16.2% | 6.1% | 13.8% | 11.1% | 12.6% | 11.1% | 13.9% | 13.4% | 22.3% | 43.8% | 31.3% |



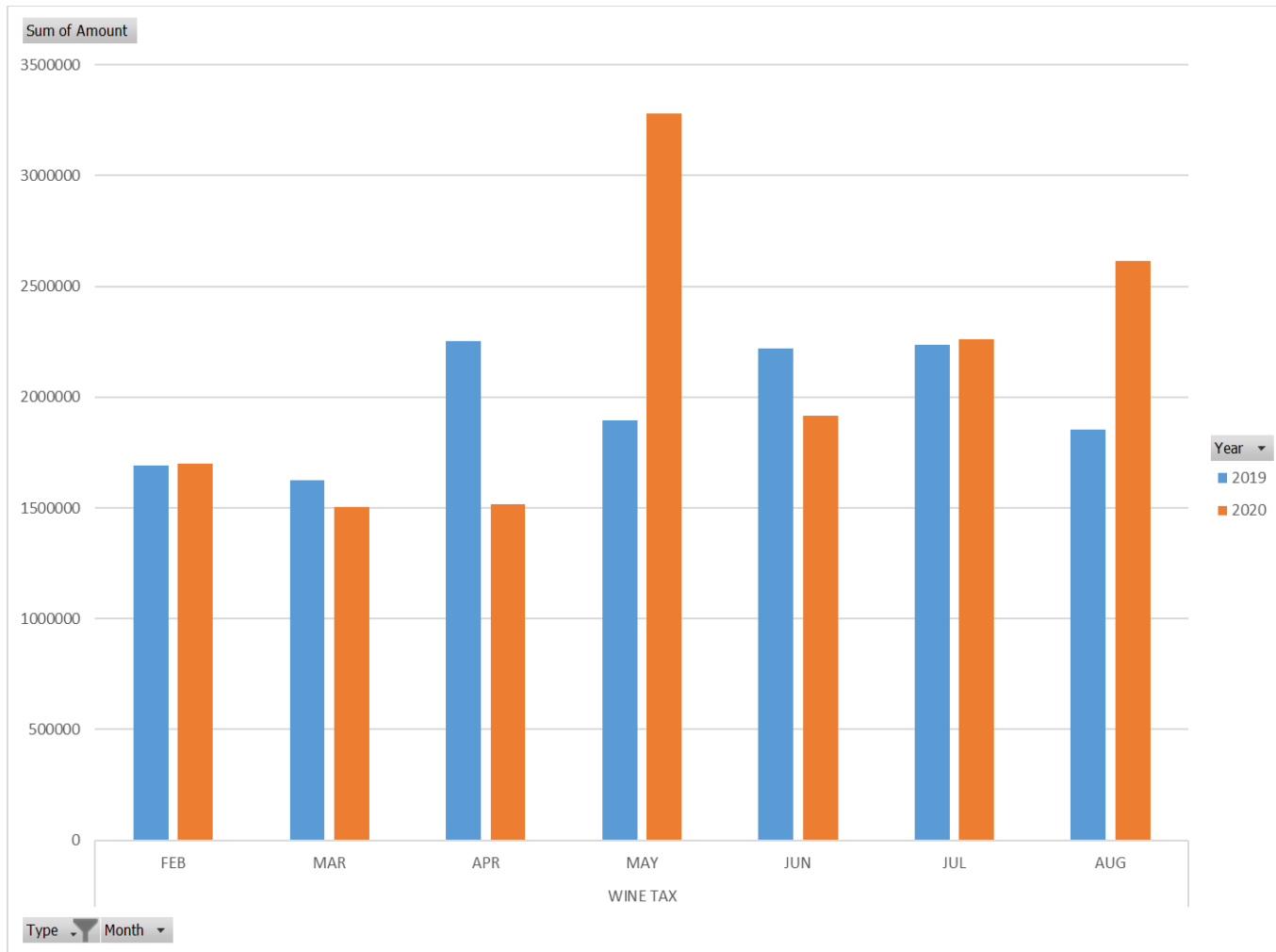
Alcohol Sales during Pandemic: Spirits ↑

Spirit Retailer Sales





Alcohol Sales during Pandemic: Beer/Wine Sales Uneven





Questions?